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August 2, 2002

Ex Parte Communication

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: MM Docket No. 00-39

Dear Ms. Dortch:

Yesterday, Jeff Baumann, Lynn Claudy, Karen Fullum Kirsch, and the undersigned met with Commissioner Kathleen Abernathy, Commissioner Kevin Martin, Stacy Robinson, and Catherine Bohigian to discuss proposals for the Commission to require digital television reception capability in all new television receivers. We made the following points:

- Broadcasters have and will continue to argue that, to advance the transition to digital television, the Commission must (1) adopt secure cable carriage rules including a revised definition of primary video, (2) ensure full compatibility between cable systems and digital television receivers, and (3) require DTV reception capability for all new television receivers. While all of these steps are important, action on any one will help to advance the transition.
- Ensuring DTV reception capability for all new television receivers will materially advance the transition to digital. Each household which has a DTV-capable receiver will count towards the 85% statutory penetration goal, while new analog-only receivers will make achieving that penetration level more difficult
- Mandating DTV reception capability will not harm consumers. As the A.D. Little Study and Zenith have confirmed, the costs of adding digital reception capability – spread over millions of new receivers – will be minimal. Further, consumers with DTV-capable televisions will be spared the costs of replacing those receivers or purchasing converters when analog broadcasting comes to an end.

Ms. Marlene H. Dortch

August 2, 2002

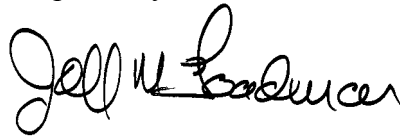
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- The Commission possesses ample authority to require DTV reception capability in all new televisions. The provisions of the All-Channel Receiver Act squarely support FCC action.

We relied on several documents to summarize and support our arguments. Copies of these documents were also provided to the offices of Chairman Powell and Commissioner Copps, and copies are also attached to this letter.

Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jack N. Goodman", written in a cursive style.

Jack N. Goodman

cc: The Honorable Kathleen Q. Abernathy
The Honorable Kevin J. Martin
Stacy Robinson
Catherine Bohigian

Enclosures

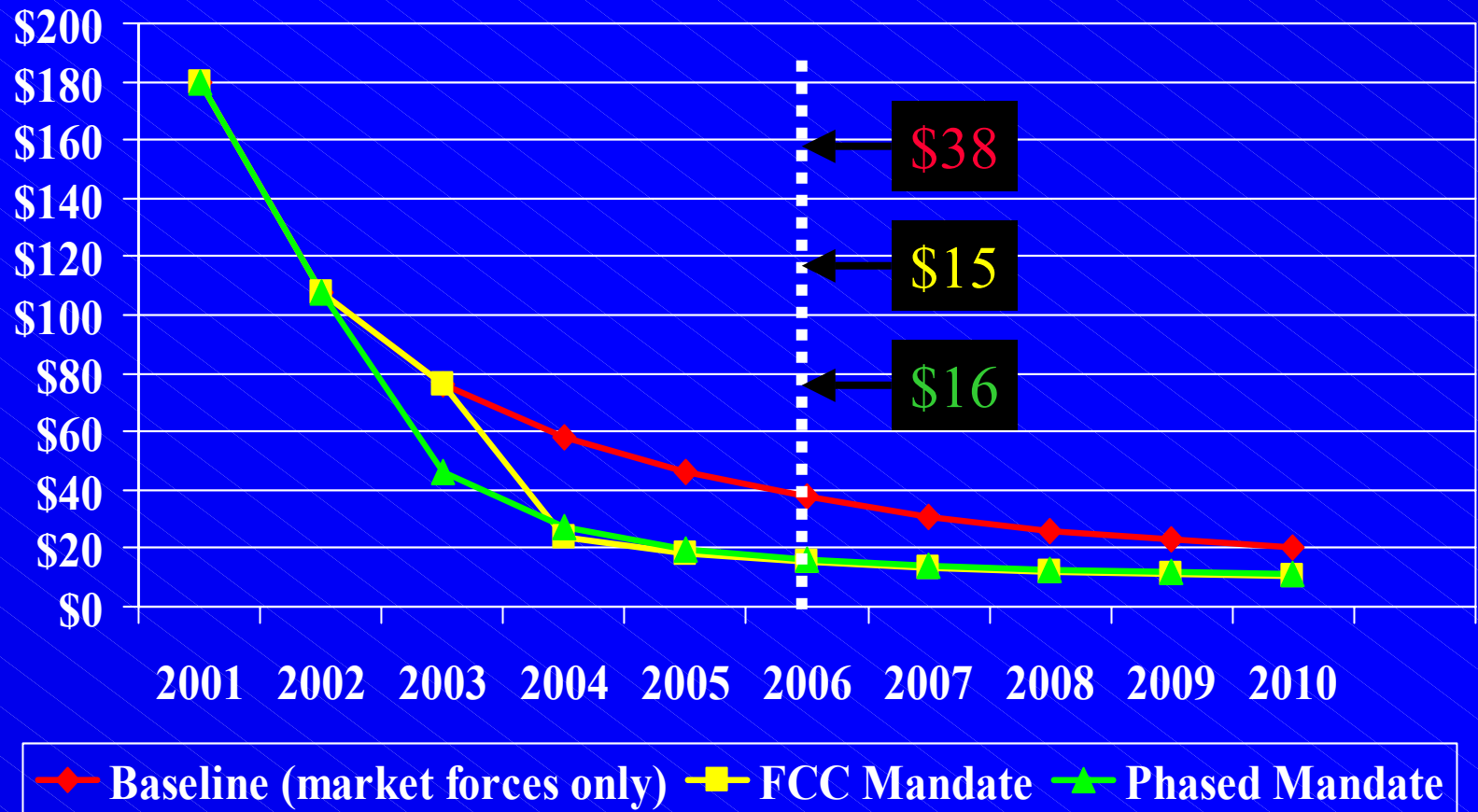


The FCC Should Mandate DTV Reception Capability in All TV Receivers

- C Requiring DTV reception capability will advance the transition to DTV
 - C Each household purchasing a DTV-capable receiver will count towards the statutory 85% penetration level; by contrast, every new analog-only receiver (25-30 million sold annually) delays the end of analog broadcasting
 - C AD Little study predicts – with DTV receiver mandate – that 85% DTV penetration can be reached by 2007-08
 - C Rapid growth in DTV receivers will stimulate further development of innovative and compelling DTV programming
 - C Increased production of DTV receivers will create incentives for technical improvements
- C Requiring DTV reception capability in all TV receivers will not harm consumers
 - C CEA cost scenarios do not include economies of scale and declining price trend
 - C All previous receiver mandates did not in fact result in higher prices
 - C AD Little study – unrefuted in the record – predicts increased *retail* cost increase of only \$15-16 by 2006
 - C Zenith says cost for large-screen sets will be offset by normal price declines and, by the time the requirement is phased in for small sets, the “cost of producing a digital receiver can be about the same as an analog tuner.”
 - C Finally, DTV-capable receivers will *save consumers* the cost of a DTV converter or a new set when analog transmissions end.
- C The Commission correctly concluded in 2001 that it has the authority to “establish requirements for DTV receiver capabilities”
 - C The All-Channel Receiver Act (47 USC § 303(s)) states that FCC can require that all devices intended to receive television signals “be capable of adequately receiving all frequencies allocated by the Commission to television broadcasting.”
 - C Legislative history – while supportive of a DTV reception requirement – is irrelevant since the statutory language is “plain and unambiguous.”
 - C Congress enacted ACRA in the face of contentions that it would burden consumers – predictions that proved to be false.

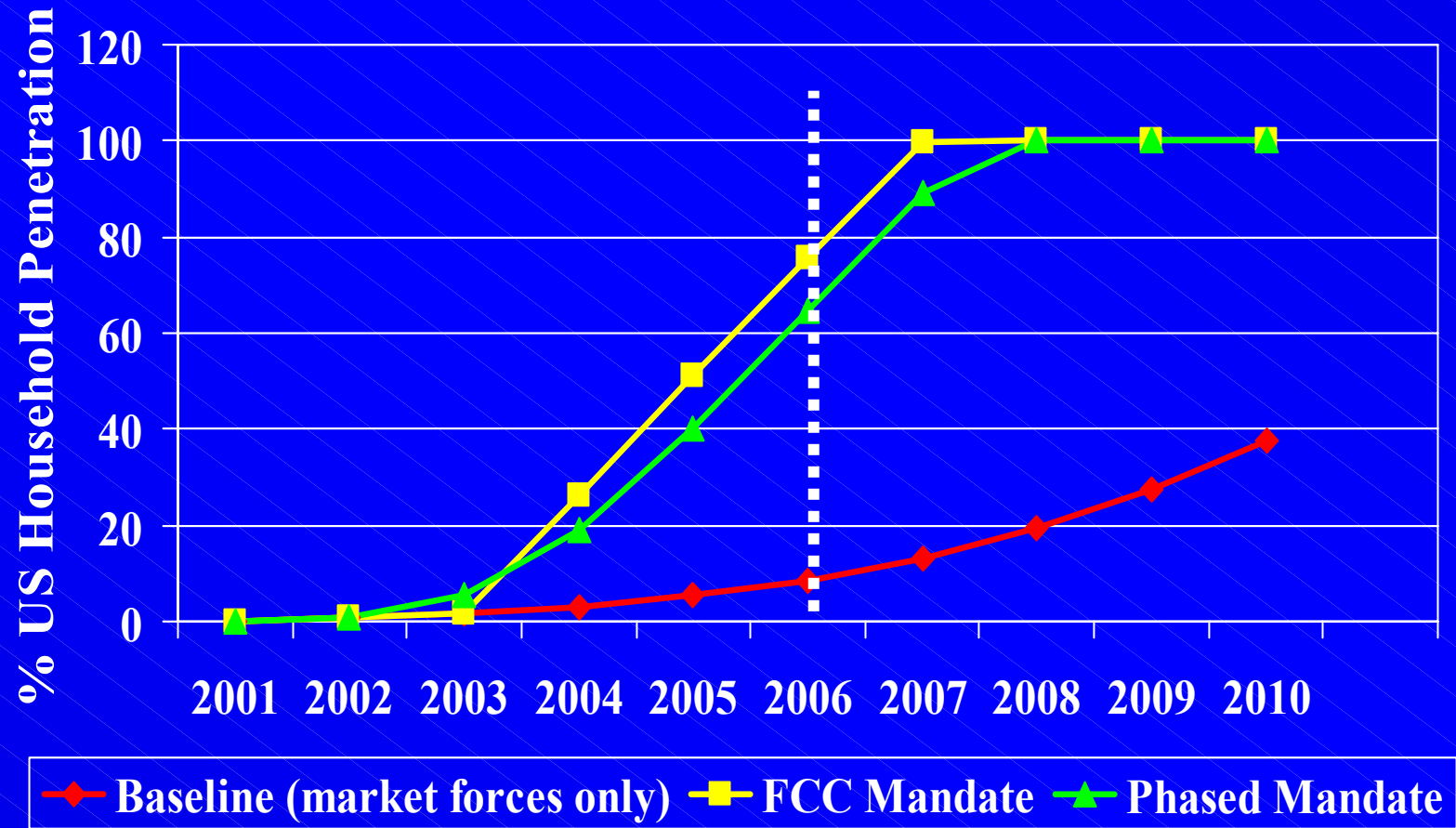
Cost to Add DTV Capability to TV Set

Retail Cost Comparison



Source: AD Little

Impact of FCC Mandate for DTV Capability on DTV Penetration



Source: AD Little

Price Decline of DVD Players

Year	Sales to Dealers (Unit Sales in Thousands)	Average Unit Price	Decline in Average Price from Previous Year (%)
1997	349	\$491	--
1998	1,079	\$390	20%
1999	4,072	\$270	31%
2000	8,499	\$202	25%
2001	13,000	\$165	18%
2002	16,250	\$155	6%

Price Decline of DTV Sets and Displays

Year	Sales to Dealers (Unit Sales in Thousands)	Average Unit Price	Decline in Average Price from Previous Year (\$)
1998	14	\$3,147	--
1999	121	\$2,433	\$714
2000	648	\$2,200	\$233
2001	1,425	\$1,835	\$365
2002	2,250	\$1,635	\$200

THE ALL-CHANNEL RECEIVER ACT: CAN IT DO FOR DTV WHAT IT DID FOR UHF?

There are some interesting parallels between the UHF broadcasting issues that led to passage of the All-Channel Receiver Act and the present situation with DTV and NTSC.

In a January 11, 1962, speech at the National Press Club, FCC Chairman Newton Minnow used all-channel legislation as his main theme announcing that "our chief legislative proposal for 1962 is the all-channel TV receiver bill." *Broadcasting Magazine* reported that "the success of the FCC's No. 1 lobbying crusade is somewhat doubtful. Similar bills have been introduced in the past three Congresses but have not been successful in even getting a committee hearing." Closely tied up with proposed all-channel legislation was the FCC proposal to "de-intermix" eight markets by withdrawing their VHF channels, on the supposition that UHF stations could not compete effectively with VHF stations. Nine bills were introduced in the House to block the de-intermixture move, and five of those also included an all-channel receiver proposal as a better way to encourage UHF development. By February 19, *Broadcasting Magazine* reported a change was in the wind: "The feeling is growing that an all-channel receiver bill will pass..." On February 20, EIA testified at hearings before the Senate Communications Subcommittee justifying its opposition to the all-channel legislation, saying it would result in a 14%, or \$30, increase to the price of sets. EIA said the failure of UHF was not due to lack of UHF sets, but to a lack of enterprise and imagination on the part of UHF station operators. As an alternative, EIA suggested a "voluntary program in which manufacturers would cooperate in a campaign to promote UHF." The House held hearings the next month where NAB President LeRoy Collins stated NAB's support for all-channel legislation and maintaining VHF/UHF intermixture.

The House Commerce Committee approved a bill for all-channel receivers in late March 1962. It passed the House with a vote of 279-90 in early May. EIA opposed the legislation (although RCA, Zenith and Admiral supported it) but, in case it passed, made the somewhat bizarre proposal that "[Congress] should at least require VHF broadcasters to provide parallel UHF program service... to compensate the consumer for the extra cost of his set. "

In late May, the Senate Commerce Committee approved an all-channel receiver bill and included an amendment requested by the FCC to require noise figures of receivers to meet minimum criteria. It passed the Senate in early June. By agreement with the FCC, the de-intermixture proposals were put on hold, and were eventually withdrawn by the FCC. The magnitude of the accomplishment of the passage of the bill was noted in a *Broadcasting Magazine* editorial on June 25:

"The incredible, if not the impossible, happened in the passage of all-channel receiver legislation by Congress....Enactment of this legislation against what were regarded as insuperable odds is a striking example of what can be achieved when broadcasters work together for a just cause."

President Kennedy signed the bill into law on July 10 1962, authorizing the FCC to require television receivers "be capable of adequately receiving all frequencies allocated by the Commission to television broadcasting." In September, the FCC released a *Notice of Proposed Rulemaking* requiring any television set manufactured after April 30, 1964, to be an all-channel set. They also proposed a maximum noise figure for the tuner. The *First Report and Order* establishing this rule was issued in November 1962. The result is shown below.

YEAR	Avg. (B/W) TV Factory Cost (\$)	% homes w/ UHF receivers	#UHF stations
1961	125	7.1	91
1962	128	7.3	102
1963	118	9.6	113
1964	109	15.8	120
1965	106	27.5	129
1966	98	38.0	148
1967	92	47.5	174
1968	74	57.0	211

EIA's prediction of higher receiver costs apparently didn't materialize. But the predicted growth of UHF television stations and potential UHF viewing audience is indeed apparent.